

REMARKS

Claims 1-25 stand rejected and remain pending. New claims 26 and 27 are being added. Therefore, following entry of this amendment claims 1-27 will be pending.

Claims 1-4 are being amended to provide the scope of protection to which the applicant is entitled. Specifically claim 1 was limited to the first and last wall panels of the rear wall partition having keyholes and the first sidewall panel having a stud that mated with a keyhole. The location of the keyholes and studs could be reversed without departing from the inventive concept being claimed. Therefore, claim one is being amended to cover either set of locations and the other original claims are being changed to conform to the alteration of claim 1. Claims 26-28 are being added for similar reasons.

Rejection Under 35 U.S.C. §103

Claims 1-6 and 8 were rejected under 35 U.S.C. §103 as being unpatentable over Maas (U.S. Patent No. 5,272,848) in view of Nussdorf, *et al.* and LeMay. The rejection states that the Nussdorf, *et al.* patent teaches a portable display booth having a tall rear wall and two significantly shorter side walls. The Office Action then makes a logical leap by contending that it would be obvious to utilize three room dividers as in the Maas patent for the three walls of the Nussdorf, *et al.* display booth. However, the rejection has offered no support as to how the prior references suggest that combination, nor how it would have been obvious to overcome the problems associated with that substitution.

In order to support a conclusion that a claimed combination is obvious, the references must either impliedly or expressly suggest the selection of the various elements

in that combination, *In re Newell*, 891 F.2d 899, 13 U.S.P.Q.2d 1248, 1250 (Fed. Cir. 1989). At best, the rejection has shown that it would be obvious to try to modify Maas room dividers for use as an exhibition booth. However, what a skilled artisan would find obvious to try is not the test for obviousness under 35 U.S.C. §103, *In re Geiger*, 815 F.2d 686, 2 U.S.P.Q.2d 1276 (Fed. Cir. 1987).

First of all, the Nussdorf, *et al.* patent teaches nothing more than the conventional exhibit booth system described in the background section of the present application in which vertical and horizontal pipes interconnected to form a frame on which drapes then are hung. Such a booth does not have rigid wall panels, nor walls that can be moved easily without disassembling the pipe frame.

Nothing in the cited patents suggests how the Maas room divider can be modified to form the type of exhibition booth either shown in Nussdorf, *et al.* or being claimed in the present application. It is impossible to connect two differently sized Maas room dividers to form the rear and side walls of Nussdorf, *et al.* arrangement. Note that both ends of the Maas room divider have an end member 12a or 12b, with a long base bar 14 and a tall curved post 15 or 16, extending laterally outward from the plane of the wall panels. The tall, curved post acts as a buttress with the base bar to stabilize the portable room divider. Therefore, absent an express teaching, a skilled artisan would not find it obvious to eliminate those curved posts and their stabilizing function. However two of those room dividers cannot be connected at a right angle to form the rear and side walls of the Nussdorf, *et al.* display booth because of interference between the end members 12 on those dividers. The two Maas room dividers must be placed apart, thereby creating a

gap at each corner, which is undesirable for a display booth. Therefore, it would not be obvious to a skilled artisan to use the Maas room dividers to form the Nussdorf, *et al.* display booth.

Of equal significance is that the corner gap due to interference of the end members 12 on the Maas room dividers is contrary to the connection in claim 1 in which a second connector element (e.g. a stud) on a sidewall panel engages a first connector element (e.g. a keyhole) on a panel of the rear wall partition. Thus the claims specify that a panel of the rear wall partition is directly connected to a panel of the side wall partition. However, such direct connection of the panels in the rear and side walls is impossible with two room dividers as in the Maas patent, because their end members prevent direct engagement of the panels. Therefore, one of ordinary skill in the art would not find it obvious to utilize three Maas room dividers in place of the pipe and drape staging taught by Nussdorf, *et al.* Significant, non-obvious modifications of the Maas dividers are required in order to form a three-sided exhibition booth.

In contrast, the side walls shown in Figure 1 of the present application do not have the curved end supports and have transverse feet 56 and 57 that are significantly shorter than the corresponding feet at the ends of the rear wall panel or of the Maas end members. The location of the side wall feet is such that they do not interfere with the end supports 24 and 26 on the rear panel, as shown at the corners of the exhibition booth in Figure 1. This relationship of the feet and other characteristics of the end panels of the side wall partitions enable them to be butted at right angles directly against the wall panels of the rear wall partition. These distinctive characteristics of each side wall in

the present invention, that make the assembly of an exhibition booth room divider system possible, are not obvious in view of the combined teachings of the Maas, Nussdorf, *et al.* and LeMay patents. As a consequence, the rejection has failed to establish a *prima facie* case of obviousness under 35 U.S.C. §103.

Furthermore, it is respectfully submitted that LeMay does not suggest the keyhole and stud fastening system recited in claim 1 to connect a side wall panel directly to a rear wall panel. Note that the LeMay keyholes 28 are formed in a track 26 that is screwed to the edge of a partition 25. The keyhole enables partitions to be mounted on studs of a vertical post that is between two separate wall panels as shown in Figures 5 and 6. Thus, at best LeMay suggests that the hook and hole technique by which a horizontal pipe is attached to a vertical pipe in Figure 3 of Nussdorf, *et al.* could be replaced with a keyhole/stud connection. However, nothing suggests using keyholes and studs to connect the rear wall partition directly to a side wall partition, as recited in pending claim 1. Not that the Maas patent does not teach any mechanism for securing different ones of its room dividers together.

Because use of a keyhole/stud connector for the Maas system is generically unobvious, the specific arrangements of those connector components recited in claims 2-4, 6 and 8 are even more non-obvious.

Therefore, claims 1-6 and 8 are patentable under 35 U.S.C. §103.

Claims 7 and 11-23 have been rejected under 35 U.S.C. §103 as being unpatentable over Maas, Nussdorf, *et al.* and LeMay as applied to claim 1, and further in view of Carter.

The Carter patent relates to a wheeled arrangement for supporting equipment, such as an appliance or a hoist for a motor vehicle (paragraph [0001]). Therefore, this latter patent does not cure the deficiencies in the combined teachings of the primary references as stated above with respect to claim 1. In summary, the addition of the Carter teachings still does not suggest how room dividers in the Maas patent could be modified and used to create an exhibition booth similar to that in the Nussdorf, *et al.* patent.

In addition, nothing suggests a need to use the Carter retractable wheels on the Maas room divider. Maas teaches away from needing the Carter device as its room divider have casters that can be locked in place by brakes 21 as shown in Figure 6. Thus, the contention that it would be obvious to combine Carter's wheeled arrangement for an appliance or a motor vehicle hoist onto the Maas room divider is clearly being made in the hindsight of the teaching in the present application, which use of hindsight is clearly proscribed, *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 712 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983). Note that the other two references do not describe a wheeled device.

Therefore, even when the teachings of Carter are combined with those of Maas, Nussdorf, *et al.* and LeMay, the subject matter in claims 7 and 11-23 is not rendered obvious under 35 U.S.C. §103.

Claims 9, 10, 24 and 25 have been rejected under 35 U.S.C. §103 as unpatentable over Nussdorf, *et al.*, Maas, LeMay and Carter and further in view of Shipman, *et al.* Shipman, *et al.* has been cited as teaching a wall system that has a handle 60. However, that handle is provided on a door 40 that swings on a vertical frame member 186 (column 4, lines 9-20). None of the wall systems described in the other references provides a

door, and thus the teachings of Shipman, *et al.* that it is desirable to provide a door with a handle do not suggest the handle on a wall panel for a divider system used to define an exhibition booth as recited in these claims.

Furthermore, the Shipman, *et al.* system has a complex three-dimensional frame assembly to create a matrix between which stationary wall panels and doors are hung. This type of assembly is dramatically different than the framework of Nussdorf, *et al.* and LeMay, which simply have posts that extend upward from the floor between which the wall sections are hung.

As a consequence, the dramatically different type of wall system in Shipman, *et al.* makes it unlikely and unobvious that its teachings would be combined with those of the other references. Furthermore, even if such a combination occurred, that would still not teach the use of three different portable partitions with wheels as presently being claimed. Therefore, claims 9, 10, 24 and 25 are not obvious under 35 U.S.C. §103.

Conclusion

In view of these distinctions between the subject matter of the present claims and teachings of the cited patents, reconsideration and allowance of the present application are requested.

Respectfully submitted,
Paul A. Maas

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By: /George E. Haas/
George E. Haas
Registration No. 27,642

Quarles & Brady LLP
411 E. Wisconsin Avenue Suite 2040
Milwaukee, WI 53202-4497
Telephone (414) 277-5751

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